AMENDMENTS TO THE DRAWINGS:

Applicant submits for the examiner's consideration Replacement Sheet 5/10 wherein reference no. 30 has been canceled from Fig. 10 as requested by the examiner. No other changes have been made to Figs. 9 or 10. Applicant requests that Replacement Sheet 5/10 be entered on the record.

REMARKS

The examiner objected to the Declaration. Applicant submits herewith a revised Declaration as required by the examiner and executed by the inventors.

Applicant has submitted Replacement Sheet 5/10 to correct the typographical error in Fig. 10 by canceling reference no. 30 and its lead line. No other changes have been made to the drawing figures. Applicant respectfully requests that Replacement Sheet 5/10 be entered on the record.

Applicant acknowledges the restriction/election and withdrawal of the claims by the examiner. After the examiner's action, claims 1, 5 - 11, and 20 - 34 are pending. Claims 8 - 10, 22, 23, and 31 - 34 are withdrawn from consideration. The examiner has examined on the merits claims 1, 5 - 7, 11, 20, 21, and 24 - 30.

The examiner objected to the specification. Applicant in response thereto has amended the first paragraph of the specification to update the cross-reference to related applications. On page 9, applicant has inserted a period after "distal portion 26 of the catheter assembly 10." On page 16, applicant has changed "guidewire 24" to --guidewire 20--.

In paragraph 8 of the pending Office action, the examiner objected to the specification for allegedly failing to provide proper antecedent basis for the claimed subject matter. According to the examiner, the recitation of the limitation "biocompatible material is configured to fail at an inflation pressure below the nominal inflation pressure of the expandable member" was not found in the specification. Applicant respectfully points out that the specification does indeed support this limitation. Specifically, the pending application as originally filed at page 16, lines 15 - 19, states that "Once a first pressure is realized, which is less than the nominal inflation pressure of the balloon, the biocompatible sheath fails," supporting the language of claim 1.

Accordingly, the specification dates back at least to U.S. Serial No. 09/897,743, filed June 29, 2001 (now U.S. Patent No. 6,629,992). Therefore, applicant respectfully submits that claims 1, 5 - 7, 11, 20, 21 and 24 have an effective filing date of at least as far back as June 29, 2001.

The examiner objected to the antecedent basis for the claimed subject matter of new claim 25. Applicant respectfully submits that this limitation is indeed supported by the specification at page 10, lines 4 - 5, to wit: "In the embodiment of FIG. 1, the sheath 16 is longitudinally shorter than the stent 14." It follows then that the sheath or filament in this embodiment is shorter than the length of the stent, and the sheath or filament does not overlie the distal and proximal ends of the stent.

Nevertheless, applicant has added the description as requested by the examiner to the first paragraph of page 13 of the specification. Applicant acknowledges that claims 25 and 30 received priority benefit of parent Application No. 09/897,743, filed on June 29, 2001, and these claims should date back at least to the filing date of this application. In summation, all examined claims date back at least to June 29, 2001, the filing date of the 09/897,743 application.

The examiner rejected claims 1, 5, 6, 11 and 24 under 35 U.S.C. § 102(e) over U.S. Patent No. 6,878,161 (Lenker). This rejection is respectfully traversed.

Applicant contends that claims 1, 5, 6, 11 and 24 have a priority date back to June 29, 2001, as demonstrated above. This is prior to the April 25, 2002 filing date of the Lenker `161 reference. Lenker `161 is a continuation-in-part application, and it does not appear that the teachings relied upon by the examiner appeared in the parent application. Accordingly, Lenker `161 is not prior art under 35 U.S.C. § 102(e) to claims 1, 5, 6, 11 and 24. Therefore, the rejection should be withdrawn.

The examiner rejected claims 25, 26, 29 and 30 under 35 U.S.C. § 102(b) over U.S. Patent No. 5,843,158 (Lenker). The rejection is respectfully traversed.

According to the examiner, Lenker `158 allegedly discloses an endoprosthesis for deployment in a body lumen with all the elements of claim 25. In response thereto, applicant has amended claim 25 to provide that "the heat bond fails during expansion of the stent." Support for this amendment is provided in the specification as filed on page 13, lines 15 - 18, which dates back at least to U.S. Serial No. 09/897,743, filed June 29, 2001.

Lenker `158 in Figs. 5B, 5C, and 5D, and at column 9, lines 42 - 53, clearly indicate that the Lenker device relies on the breakage or fracture of the reinforcement element 102 to permit expansion of the stent. To be sure, this is graphically depicted in Fig. 5D of Lenker `158. On the other hand, Lenker `158 has no teaching or suggestion of failure of the heat bond (that holds the wrapped filament to the stent) to allow for expansion of the stent. At least for this reason, amended claim 25 is patentable over Lenker `158.

The examiner rejected claim 7 under 35 U.S.C. § 103 over Lenker `161 in view of Lenker `158. This rejection is respectfully traversed.

Applicant respectfully relies on this argument propounded above, establishing that claim 7 dates back to at least June 29, 2001, and is therefore not prior art to the Lenker `161 reference which has a filing date of April 25, 2002. Since Lenker `161 is not prior art, it must be dropped, and this 103 obviousness rejection is no longer supportable without it.

The examiner rejected claims 20 and 21 under 35 U.S.C. § 103(a) over Lenker `161 in view of Lenker `158 and U.S. Patent No. 5,549,635 (Solar). This rejection is respectfully traversed.

Applicant again relies on the argument propounded above establishing that Lenker `161 is not prior art to claims 20 and 21. Accordingly, if Lenker `161 is no longer prior

art to claims 20 and 21, the obviousness rejection is unsupportable and should be withdrawn.

The examiner rejected claims 27 and 28 under 35 U.S.C. §103(a) over Lenker `158 in view of Solar. This rejection is respectfully traversed.

Neither Lenker nor Solar teaches a biocompatible material comprising a filament that is wrapped around and heat bonded to the stent wherein the heat bond fails during expansion of the stent as recited in independent claim 25. Independent claim 25 and dependent claims 27 and 28 are therefore patentable over the cited references individually or in combination.

Moreover, independent claim 25 provides that "the biocompatible material comprises a filament . . . such that it does not overlie the distal end and the proximal end of the stent." In the Solar reference in Figs. 4a and 4c, and at column 6, lines 50 - 58, the teaching is clear that the retaining sheaths 40 are extended over the ends of the stent 10. Therefore, even if Lenker `158 and Solar were properly combinable, the combination does not teach that the biocompatible material does not overlie the distal end and the proximal end of the stent, as recited in claim 25.

In fact, the Solar reference teaches away from the claimed invention since the distal and proximal ends of the stent are covered by the retaining sheath/biocompatible material 40 as plainly seen in Figs. 4a and 4c of Solar. At least for these reasons, claims 25, 27, and 28 are not obvious in view of Lenker `158 and Solar individually or in combination.

In view of the foregoing, all claims are now in condition for allowance. Reexamination and reconsideration of the application, as amended, are respectfully requested and allowance at an early date is solicited.

Attached is applicant's check in the amount of $450.00 to cover the requested two-month extension fee. The Commissioner is authorized to charge deposit account no. 06-2426 for any unforeseen fees arising in connection with the filing of this paper.

Respectfully submitted,
FULWIDER PATTON LLP

By: _____
John S. Nagy
Registration No. 30,664

JSN/PYF:gbr:jeb

Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Telephone: (310) 824-5555
Facsimile: (310) 824-9696
Customer No. 24201

123097.1